



State of Wisconsin
Governor Scott Walker

Department of Agriculture, Trade and Consumer Protection
Ben Brancel, Secretary

DATE: November 5, 2014

TO: Board of Agriculture, Trade and Consumer Protection

FROM: Ben Brancel, Secretary *John Petty for Ben Brancel*
John Petty, Administrator, Agricultural Resource Management Division (DARM)

SUBJECT: Ch. ATCP 34, Clean Sweep Program- Final Draft Rule

PRESENTED BY: Robby Personette, Programs Section Chief, DARM
Jane Larson, Clean Sweep Program Specialist, DARM

REQUESTED ACTION:

At the November 19, 2014 Board meeting, the Department of Agriculture, Trade and Consumer Protection (DATCP) will ask the DATCP Board to approve a final draft rule (copy attached), amending ch. ATCP 34, related to the "clean sweep" program.

SUMMARY:

This rule modifies ch. ATCP 34, Wis. Admin. Code, related to Wisconsin's "clean sweep" program. The clean sweep program is designed to distribute grant funds to counties and municipalities to pay for costs associated with collecting and safely disposing of agricultural pesticides, farm chemical waste and household hazardous waste that might otherwise pose a threat to public health or the environment. Program funds are also used to collect unwanted prescription drugs and veterinary drugs from individuals. This rule does not alter the level of available funding for the clean sweep program.

This rule will:

- Update provisions related to grant applications, grant evaluation and approval, grant contracts, reporting requirements, reimbursement procedures, selection of hazardous waste handlers, and other matters to account for developments relating to the collection of hazardous wastes.
- Add standards to the rule for the statutory "unwanted prescription drugs" component of the clean sweep program.
- Amend the rule to resolve existing conflicts between the statute and rule concerning funding amounts for the grants and to consider the overall needs of grant recipients.

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- Reduce paperwork by permitting electronic applications for grants. Make changes to improve the administrative and operational efficiency of the “clean sweep” program.

Rule Contents

This rule amends ch. ATCP 34 relating to the clean sweep program. The following is a summary of the rule changes by section topic:

“Purpose” Section

The establishment of procedures for making unwanted prescription drug grants to local governments will be added to the “Purpose” section of the rule.

“Definitions” Section of the Rule

- The term “unwanted prescription drug” is created and includes Schedule II through V controlled substances and nonprescription drug products. It also includes prescribed and over-the-counter veterinary drugs. The definition specifically excludes chemotherapy drugs, trace chemotherapy waste, infectious waste, and products that contain elemental mercury, such as thermometers. The definition emphasizes that unwanted prescription drugs must come from households.
- The rule removes the term “event” and references a project as a “collection.” When local governments first decided to collect pesticide and household wastes, they often held one- or two-day collection “events.” Since then, many local governments have expanded to multiple collections or have established permanent collection sites that offer convenience for local residents.
- A “temporary collection” means a clean sweep project that collects hazardous waste five days or less in a calendar year. A “continuous collection” means a clean sweep project that collects chemicals on six or more days in a calendar year. Initially, comments during DATCP listening sessions on the clean sweep program showed a desire to broaden the gap in time periods between temporary and continuous collections, DATCP did amend these definitions in the initial hearing draft. However, comments received during the rule’s public hearings indicated that there was no benefit to be gained by the proposed change in definitions. In fact, some collection projects would be unable to stay at a continuous collection level, which would ability of local governments to serve their communities because temporary collections must request lower funding levels. Therefore, DATCP’s proposed change to broaden the gap between “temporary” and “continuous” collections was removed from the final rule draft.

Section on Grants to Counties and Municipalities

- Drug Drop Boxes. Currently, clean sweep grant funds cannot be used to purchase permanent equipment. However, a large expense associated with the collection of unwanted prescription drugs is a drug drop box. These drop boxes are a secure place for residents to dispose of their unwanted prescription and veterinary drugs. The boxes typically are located within law enforcement agencies and are designed in such a way that drugs cannot be removed except by authorized personnel. The rule would allow a local

government to request funds for the direct costs associated with the purchase and installation of a drug drop box.

- Disposal of Dual-Hazardous Waste. This rule will allow counties and municipalities to request reimbursement for the disposal of delivery devices that contain medication such as epinephrine auto-injectors (an example is an EpiPen®) or prefilled syringes. Disposal costs for sharps such as needles or lancets would remain ineligible for reimbursement.
- Eligible Costs. Direct Costs related to the collection and disposal of unwanted prescription drugs were identified as costs for which the grant funds could be used in the hearing draft. In the final draft, modifications were made to further identify eligibility of the collection and disposal of mercury-containing devices under a household hazardous waste collection.
- Prohibited Uses. Prohibited uses of grant funds is expanded to include infectious waste, hypodermic needles and lancets, personal care products, and oxygen-containing devices.

Section on Grant Applications

- Grant Solicitation Announcements. This rule expands the methods of soliciting applications for clean sweep grant funds beyond written announcements.
- Grant Fund Amounts. Existing Wis. Admin. Code ch. ATCP 34 states that the department shall offer no less than \$400,000 for farm chemical waste collection and not less than \$200,000 for household hazardous waste collection. In recent years, the demand for the collection and disposal of household hazardous waste has outpaced agricultural pesticides and farm chemical waste. Also, with the statutory addition of grants for unwanted prescription drug collections in 2008, a different allocation of funds among the collection grants is now required. The new statutory language requires the department to offer a minimum of two-thirds of the available funds for household hazardous waste under s. 93.57, Stats. This rule reflects the change in statutory requirements and eliminates the conflict between rule and statute. This change is also supported by data collected from clean sweeps in recent years. The demand for household hazardous waste disposal is increasing while the demand for agricultural waste disposal is declining. Household waste disposal demand is outpacing agricultural demand by about a 16:1 margin, based on 2013 collection data.
- Grant Applications. The current rule requires that grant applications be submitted on a form provided by the department. To keep up with changing and available technology such as electronic or web-based applications, the rule specifies that future applications will be submitted in a manner designated by DATCP.
- Required Information in Applications. Because of the gap between grant submittal and acceptance, and the possibility that a grant may not be funded, this rule specifies that applicants no longer have to provide specific dates, locations and facilities for collections. The department will gather that information after grants are awarded. The rule also removes the requirement that an applicant describe its plans for collecting, handling and disposing of chemical waste. Clean sweep collections are not new and local governments and waste haulers have developed much experience since 1990. Finally, because

multi-government collections are quite common as a way to reach more residents and gain efficiencies with collections, applicants no longer need to describe the role of each government participant under this rule.

Section on Evaluating Grant Applications

Evaluation of Eligible Applications. Under this rule, the department will modify the criteria used to assess clean sweep grant applications. Early in the program's history, applicants were encouraged to collect farm and household waste and determine what chemicals were of concern in their areas. Now the majority of applicants are experienced project coordinators familiar with local needs and available resources. For some, it is impractical to collect more than one waste type because there is no need. Because of the experience of the local government coordinators and their staff, evaluating an application based on its safety and suitability is no longer necessary. Coordination across multiple governments is encouraged and points are awarded for these types of collections, but it is no longer necessary to place a priority on such coordination.

Section on Grant Awards

Farm Waste and Household Waste. This proposed section reflects the changes in the statute for grant awards and removes the discrepancy between statute and rule. The current rule states that the department will annually award grants totaling at least \$400,000 for farm chemical waste, while the statute directs the department to offer a minimum of two-thirds of the available funds for household hazardous waste. This rule corrects the discrepancy by taking into consideration the current appropriation under s. 20.115 (7) (va), Stats.

Section on Grant Contracts

- Hazardous Waste Contract. This rule removes the requirement that the written contract between the department and the clean sweep grant recipient include the recipient's contract with its hazardous waste contractor. The department has found that the information provided in the grant applications is sufficient to make awards.
- Limited Funding. Should the amount of grant funds available be insufficient to cover the awarded grants, the department has the ability to cancel one of more of the grants at its discretion.

Section on Collecting Waste Pesticides from Very Small Quantity Generators (VSQGs)

Generally, a "VSQG" is an individual or business who generates limited quantities of waste pesticides and can include certain hardware stores, farm supply stores, cooperatives, municipalities, or commercial pesticide applicators. This proposed section removes the requirement that a county must collect the license status of a VSQG licensed under ch. ATCP 29. As long as the VSQG's name and address is captured, the department can verify licensure, if necessary.

Section on Hazardous Waste

Hazardous Waste Contractor. This proposed section incorporates unwanted prescription drug collection into the rule. It also removes the requirement that hazardous waste contractors selected by grant recipients attend a

training session provided by the department. This was a necessary requirement in the early days of the program but is no longer needed since the program participants, including waste contractors, have gained experience and familiarity with the clean sweep program rules.

Section on Reports and Payments

Final Report. This proposed section allows for a 45-day extension on the final report deadline. Other required elements of the final report are consolidated within the rule. This proposed section removes the requirements to estimate future collection needs, the timing of collection and suggestions on how to collect chemical waste, which are considered no longer necessary with a mature program.

Public Hearings

DATCP held three public hearing on the original rule proposal as listed below:

- February 17, 2014, Jefferson
- February 18, 2014, Eau Claire
- February 19, 2014, Appleton

DATCP accepted written comments until March 5, 2014. A total of seven people attended and registered at the public hearings, and one person submitted written comments. Four others commented on the rule when the economic impact analysis was posted. The department received both general comments related to the rule as a whole and specific comments related to certain provisions within the rule. The general comments were largely supportive of the rule revision. Specific comments included requests to modify existing rule provisions, opposition to certain proposed changes, and provision of alternative rule language. A summary of public hearing comments received and attendance can be found in Attachment A.

DATCP's Rule Changes in Response to Public Hearings and Rules Clearinghouse Comments

DATCP made changes to the rule draft in response to comments received through the public hearings, from the Legislative Council Rules Clearinghouse (Clearinghouse) and consultation with the Wisconsin Department of Natural Resources (DNR.) A summary of the comments are in Appendix A. All of the Clearinghouse comments were addressed. The key changes are listed in the order in which they appear in the rule.

“Continuous collection.” The initial rule draft modified the definition of continuous collection, increasing it from four days or more to six days or more, to create a greater difference between continuous and temporary collections. Public hearing comments stated the change would not create any benefit. In fact, some clean sweep projects would be unable to stay at a continuous collection level. This would limit local governmental units’ ability to serve their communities because temporary collections must request lesser funding levels. Therefore, the definition of “continuous collection” was modified from initial draft to final draft. The Note was also added after the hearings to emphasize that collections must adhere to DNR hazardous waste rules.

“In-kind costs.” The Clearinghouse commented that the meaning of the phrase “in-kind costs” should be clarified. The current rule states that a clean sweep grant may reimburse a grant recipient’s direct costs for a project but the rule was silent regarding reimbursement for in-kind costs. In response, the department created a definition for in-kind costs.

“Permanent collection.” Since the clean sweep program began nearly 25 years ago, many municipalities have established permanent collection sites. This definition was created to acknowledge those efforts. The definition in the rule draft included the phrase, “includes permanent infrastructure dedicated to the program use.” Public hearing comments indicated a concern that ‘dedicated to program use’ could exclude some permanent collections because the municipality collected hazardous waste but other items as well. This phrase was removed. The Note was also added after the hearings to emphasize that collections must adhere to DNR hazardous waste rules.

“Temporary collection.” The initial rule draft modified the definition of temporary collection, increasing it to five days or less rather than three days or less. Comments received during the public hearings indicated there would be no benefit to be gained by the proposed change in definition. Collections that met the current requirement of four days or more for a continuous collection would then be dropped to a temporary collection that would reduce their funding levels and further limit service to their communities. Therefore the definition for “temporary collection” was not changed. A note was also added to the rule after the hearings to emphasize that collections must adhere to DNR hazardous waste rules.

“Unwanted prescription drug.” In the draft rule, the term “unwanted prescription drugs” was added to the definition of household hazardous waste. Public hearing comments pointed out that appending “unwanted prescription drugs” to household hazardous waste created confusion and did not accurately reflect current state regulations. The terms have been separated and the “unwanted prescription drug” definition has been refined. The DNR also provided guidance on the definition. The final draft also adds language to emphasize that “unwanted prescription drugs” are to come from households so there are no conflicts with medical waste disposal requirements overseen by the DNR.

“Very small quantity generator”: Comments received from the DNR pointed out that our NR code reference for VSQG had changed. This was corrected in Wis. Admin. Code s. ATCP 34.02 (18).

Prohibited uses of funds. The initial rule draft contained a generalized description of items that were not eligible for disposal under the grant. The rule draft was revised to be more specific about ineligible items.

Grant solicitation. The term ‘request for proposal’ was used in the original rule draft. Upon further reflection, this is not an accurate term for the clean sweep grant program so this term has been changed to “grant solicitation.”

Grant Awards. Based on comments received at the public hearings, the term “unwanted prescription drugs” was separated from the household hazardous waste definition. Because of the separation of the two terms, Wis. Admin. Code s. ATCP 34.10 (3m) was added to address the allocation of funds for unwanted prescription drug

collections according to statute. In addition, Wis. Admin. Code s. ATCP 34.10 (4) was modified to specifically address the allocation of funds for agricultural waste grants.

Reference to new law requiring Department of Justice authorization of drug disposal programs. A reference to new law in ch. 165, Stats., was inserted into Wis. Admin. Code s. ATCP 34.10 (3m) to remind grant recipients of the new legal requirements relating to drug disposal programs.

Hazardous waste contractor for permanent and continuous collections. The responsibilities of hazardous waste contractors are addressed in Wis. Admin. Code s. ATCP 34.16 (4) 9 if controlled substances are part of an unwanted prescription drug collection.

Summary of Factual Data and Analytical Methodologies

To develop this rule, four listening sessions were held throughout Wisconsin. Participants included representatives from local government entities that are current and past grant recipients, many of whom manage county or municipal solid waste programs. Comments were also received from law enforcement agencies that administer unwanted prescription drug collections.

Analysis and Supporting Documents Used to Determine Effects on Small Business

No supporting documents were used. DATCP relied on information obtained through the listening sessions (See Summary of Data and Analytical Methodologies, above), as well as any comments received through the economic impact analysis comment period.

Fiscal Impact

There will be no fiscal impact from this rule revision. The amount of available grant funds will not change under this rule revision nor have eligibility requirements changed. (See attached *Fiscal Estimate and Economic Impact Analysis*.)

Effects on Specific Businesses and Business Sectors

This rule revision will have no effect on small business. By statute, the department may only award grants under the clean sweep program to *local government entities* for expenses related to the collection of and disposal of unused agricultural pesticides, household waste, and unwanted prescription drugs. No changes have been made to the current rule that would impact small businesses. The rule will continue to benefit certain small businesses such as farmers, farm supply stores, and cooperatives that generate small quantities of waste pesticides per month, since clean sweep collections provide a no- or low-cost method of disposing of agricultural pesticides and other farm chemical waste.

Existing or Proposed Federal Statutes and Regulations

The United States Environmental Protection Agency (EPA) administers the Resource Conservation and

Recovery Act (RCRA), which includes regulations affecting the collection, movement, and disposal of hazardous agricultural and household waste. EPA has also adopted universal waste management rules under 40 CFR 273. Wisconsin's "clean sweep" grantees and vendors must comply with all applicable RCRA and universal waste provisions.

Prescription drugs that are controlled substances are regulated under the federal Controlled Substance Act (21 USC 801) and the Controlled Substances Import and Export Act (21 USC 951). On September 9, 2014, the federal drug enforcement administration published its final regulations on prescription drug disposal under the Secure and Responsible Drug Disposal Act of 2010, which took effect on October 9, 2014. Wisconsin's prescription drug "clean sweep" program must comply with all these federal laws and regulations.

Comparison with Rules in Adjacent States

The surrounding states of Illinois, Iowa, Michigan and Minnesota also collect unwanted pesticides, household hazardous waste or unwanted prescription drugs. The agencies involved, their funding sources, and distribution of funds vary greatly. Wisconsin is the only state that has one agency overseeing these various types of grants.

Illinois

Illinois offers a grant for agricultural and structural pesticide collections through the Illinois department of agriculture. The Illinois environmental protection agency also offers four one-day collections for household hazardous waste and unwanted drugs, in addition to some county hosted events. Illinois's Prescription Pill and Drug Disposal Fund provides reimbursement to law enforcement agencies for collection, transport and incineration of medicines collected from residential sources.

Iowa

Iowa no longer holds household hazardous waste collection days and eliminated the award of grants to fund those one-day collections. Instead, the Iowa department of natural resources offers Regional Collection Centers (RCCs) that are open year-round. These RCCs take household waste but can also accept agricultural waste at their discretion. In addition to main RCCs, there are satellite RCC sites and mobile collections that contract with an RCC and travel within a county for collections. Iowa offers two kinds of funds: (1) reimbursement funds to cover operating expenses/disposal costs, and (2) establishment funds to help a county set up a permanent site. Unlike Wisconsin's clean sweep program, Iowa allows its funds to be used to build permanent facilities.

Iowa also offers a pharmaceutical disposal program called TakeAway, in which patients or caregivers can bring unwanted or expired medicines to participating TakeAway pharmacies. The pharmacist will dispose of the returned medications (prescription drugs or over-the-counter products) into a waste bin specially designed to safely store discarded pharmaceutical products, along with their packaging. Once filled, the TakeAway system is sealed and shipped to a medication disposal facility where the system and its contents are incinerated at a waste-to-energy facility. Some participating pharmacies also sell TakeAway envelopes, pre-addressed, postage pre-paid large envelopes that can be taken into the home, filled with unused and expired medicine, and mailed

through the United States postal service to the disposal facility. Controlled substances must go to law enforcement or one of the United State drug enforcement administration collections.

Michigan

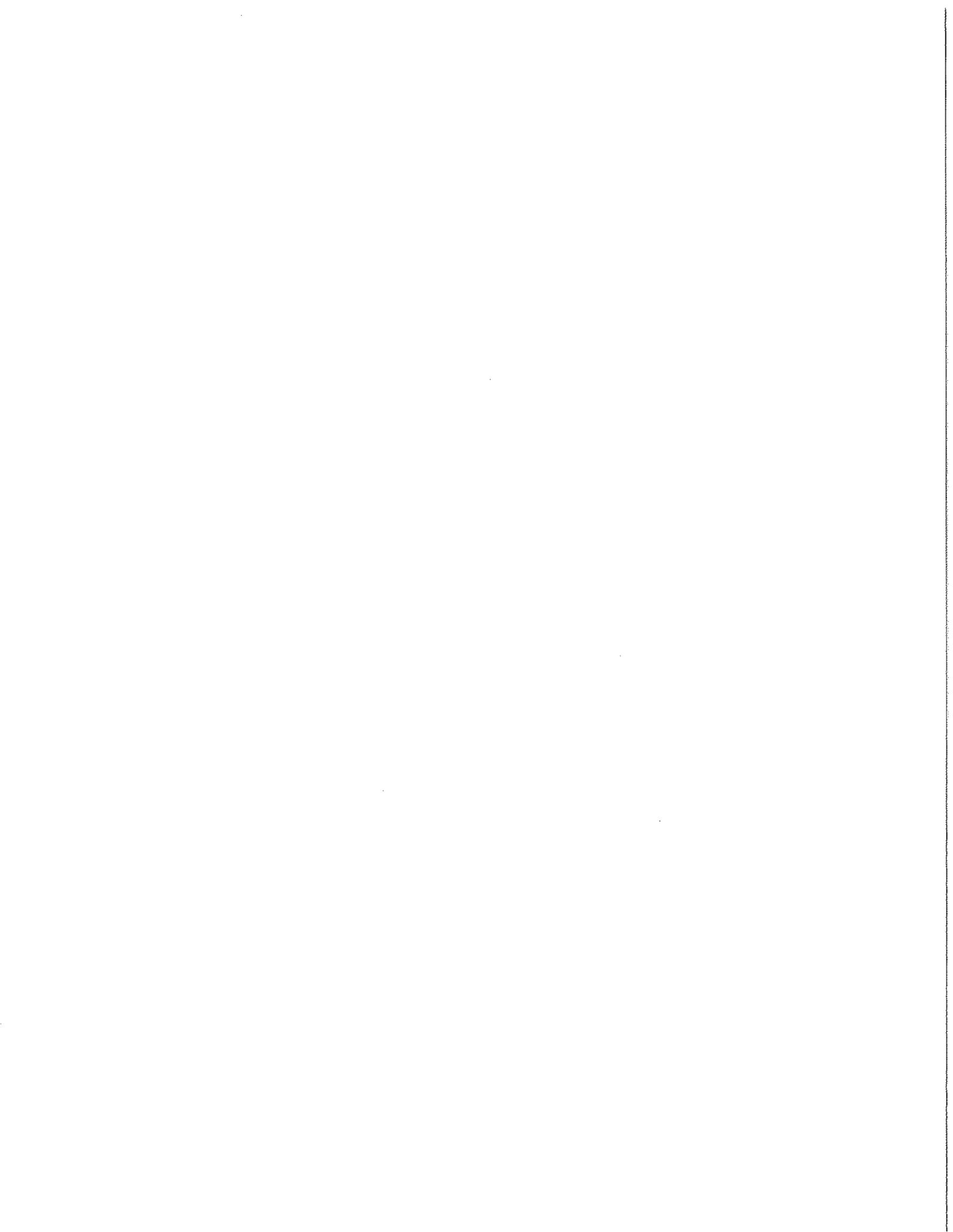
Michigan offers a clean sweep program for agricultural pesticides through its department of agriculture & rural development (MDARD). The Michigan department of environmental quality covers household collections, supported by an EPA grant. No grants are given. MDARD will cover the cost of transportation and disposal costs of pesticides collected at household events.

Minnesota

Minnesota enters into cooperative agreements with counties to collect non-agricultural and agricultural waste pesticides. For those counties without a cooperative agreement, the Minnesota department of agriculture (MDA) holds collections. Agricultural pesticides are collected every other year and household hazardous wastes are collected each year. MDA pays supplies, transportation and disposal costs and \$0.25/lb. for “reasonable overhead costs.” The Minnesota pollution control agency (MPCA) provides stipends to counties for household hazardous waste collections. Stipends cover about 10 percent of costs and are determined by different formulas. Minnesota does not offer drug grants. Collections, transportation and disposal are overseen by county law enforcement and the counties pay all associated costs.

Next Steps

If the Board approves this final draft rule, the department will submit the final draft rule to the Governor’s Office of Regulatory Compliance. If the Governor’s office approves the final draft rule, the department will then submit the rule to the legislature for legislative committee review. If the legislature has no objection to the rule, the department Secretary will sign the final rulemaking order and transmit it for publication. The rule will take effect on the first day of the third month following publication.



Appendix A

Clean Sweep Grant Program - ch. ATCP 34, Wis. Admin. Code Rulemaking Hearings Public Hearing Appearances and Written Comments

Three public hearings were held by the Department of Agriculture, Trade and Consumer Protection (DATCP) for proposed rule changes to Wis. Admin. Code ch. ATCP 34, the Clean Sweep Program Rule Proposal. The public comment period remained open until March 5, 2014. Table 1 summarizes the number of people that attended the hearing or registered their comments. No public testimony was given at any of the hearings. The two attendees at the Appleton hearing chose not to go on record but reviewed the proposed rule with the hearing officer and orally suggested changes.

Table 1: Public Hearing Attendance

Location	Date	Attendance	Appearance Card/Comments Submitted
Jefferson	February 17, 2014	4	4
Eau Claire	February 18, 2014	1	1
Appleton	February 19, 2014	2	2
	Total	7	7

Table 2 lists those who attended the public hearings, provided written comments at the public hearings, submitted comments during the open comment period or sent comments as part of the economic impact analysis.

Table 2: Appeared and/or Submitted Written Comments

Person	Organization	Support	Oppose	Supports Parts/Opposes Parts/Changes Suggested	Information Only
Steve Melstrom	Pierce County Solid Waste	X			
Sharon Ehrhardt	Jefferson County Planning and Zoning			X	
Chris Blan	Brown County Solid Waste			X	
Jennifer Semrau	Winnebago County Solid Waste			X	
Mark Heal	Veolia	X			
John Kannard	Jefferson County Board	X			
Dan Jensen	Burlington Public Works				X
Amanda Dent Haffele	Dunn and Eau Claire Counties Recycling			X	
Barb Bickford	Dept. Natural Resources			X	
Kendra Fisher	Dept. of Natural Resources			X	
Ed Lynch	Dept. of Natural Resources			X	
	Total	3	0	7	1

Table 3 summarizes the proposed rule changes that received the most comments.

Table 3: Summary of Written Comments Received on Rule Draft (Hearings, Open Comment Period and Economic Impact Analysis)

Proposed Change and Rule Reference	Support	Oppose	Oppose w/ Changes	Change/ Addition Requested	Total
Continuous and temporary collection definitions 34.02 (6) & (17)		1	2		3
Household hazardous waste definition 34.02(13)			3		3
Define the term "Household"				2	2
Including prescription drugs in household hazardous waste definition 34.02(13)		2	2		4
Permanent collection definition 34.02(14g)			2	2	4
Unwanted prescription drug definition 34.02(17r)			2		2
Prohibited use of funds 34.04(3)(h)			4	4	8
Hazardous waste contractor 34.16(4) 3.				2	2
Definition of VSQG 34.02(18)				2	2
Reconcile terms & meanings with AB448, DNR and DHS guidance				1	1
Use of term "dual waste" in rule analysis			1		1
Related rule or statutes reference to ch. 289 Stats., and NR 500 (rule analysis)				2	2
Acceptance of prefilled syringes and auto-injectors (rule analysis)	2				2

Table 4 presents the suggested changes to proposed rule language or other issues important to stakeholders. DATCP's response to these comments and suggestions are listed as well.

Table 4: Public Comments Received and DATCP's Response

Proposed Change: Legislative Council Rules Clearinghouse Comments	
Alternatives Suggested	DATCP Response
Suggested edits for 1) form, style and placement in administrative code, and 2) clarity, grammar, punctuation and use of plain language.	DATCP revised rule text to incorporate all suggested edits.
Definitions of Continuous and Temporary Collections [s. 34.02 (6) & (17)]	
Alternative Suggested	DATCP Response
<ul style="list-style-type: none"> Leave the definitions as is – for Jefferson County they would move from continuous to temporary under new definition. Define continuous as 6 or more days at a set location but this could lead to less collaboration with this definition. 	<ul style="list-style-type: none"> DATCP did leave the definitions unchanged. Staff determined there is no benefit to changing the definitions except forcing three collections from continuous to temporary status. Same as above. The rule definitions of temporary or continuous relate to the number of days that collections are held and have nothing to do with the facility where

<ul style="list-style-type: none"> • Modify so consistent with "temporary collection facility" in NR 666.901 (6) and with "permanent collection facility" in NR 666.901 (5). 	<p>the collections take place. The DNR definitions of temporary or permanent collection <i>facilities</i> depend on the number of days hazardous waste is <i>stored</i> at the facility. During Clean sweep collections, the hazardous waste hauler takes control of the hazardous waste unless the facility holds a DNR permit to store hazardous waste. A note to the rule referencing the NR 666.901 requirement will be added.</p>
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Definition of Household Hazardous Waste [s. 34.02 (13)]

Alternative Suggested	DATCP Response
<p>Remove final sentence of definition "Household hazardous waste also includes prescription drugs." NR 661 states that prescription drugs are not part of hazardous waste. Another option is to remove final sentence and add, "Household hazardous waste also includes unwanted prescription drugs generated from households." Or, define household hazardous waste and household pharmaceutical waste separately and add in unwanted prescription drugs in 34.04 (1).</p>	<p>The last sentence was removed and "unwanted prescription drug" is defined separately. "Unwanted prescription drug" references were removed from household hazardous waste references within the rule.</p>

Definition of Permanent Collection [s. 34.02 (14g)]

Alternative Suggested	DATCP Response
<ul style="list-style-type: none"> • Concern over use of "dedicated." Example, Outagamie County uses their building for more than their HHW collection. What benefit is gained by this added word? • Support for acknowledgement of efforts for permanent collections. • DATCP should include VSQG waste generator definition in definition of permanent collection. Also modify definition so it is consistent with existing DNR definition of "permanent collection facility" in NR 666.901 (5). 	<ul style="list-style-type: none"> • The phrase, "dedicated to program use" was removed and a note was added about DNR permitting requirements for storing hazardous waste. • Permanent collections may be used as criteria in grant application evaluations. • DATCP lacks authority to provide grants to VSQGs. DATCP can consider VSQG participation within the grant application evaluation. VSQG is defined in 34.02 (18) and the code reference was updated in the rule.

Definition of Unwanted Prescription Drugs [s. 34.02 (17r)]

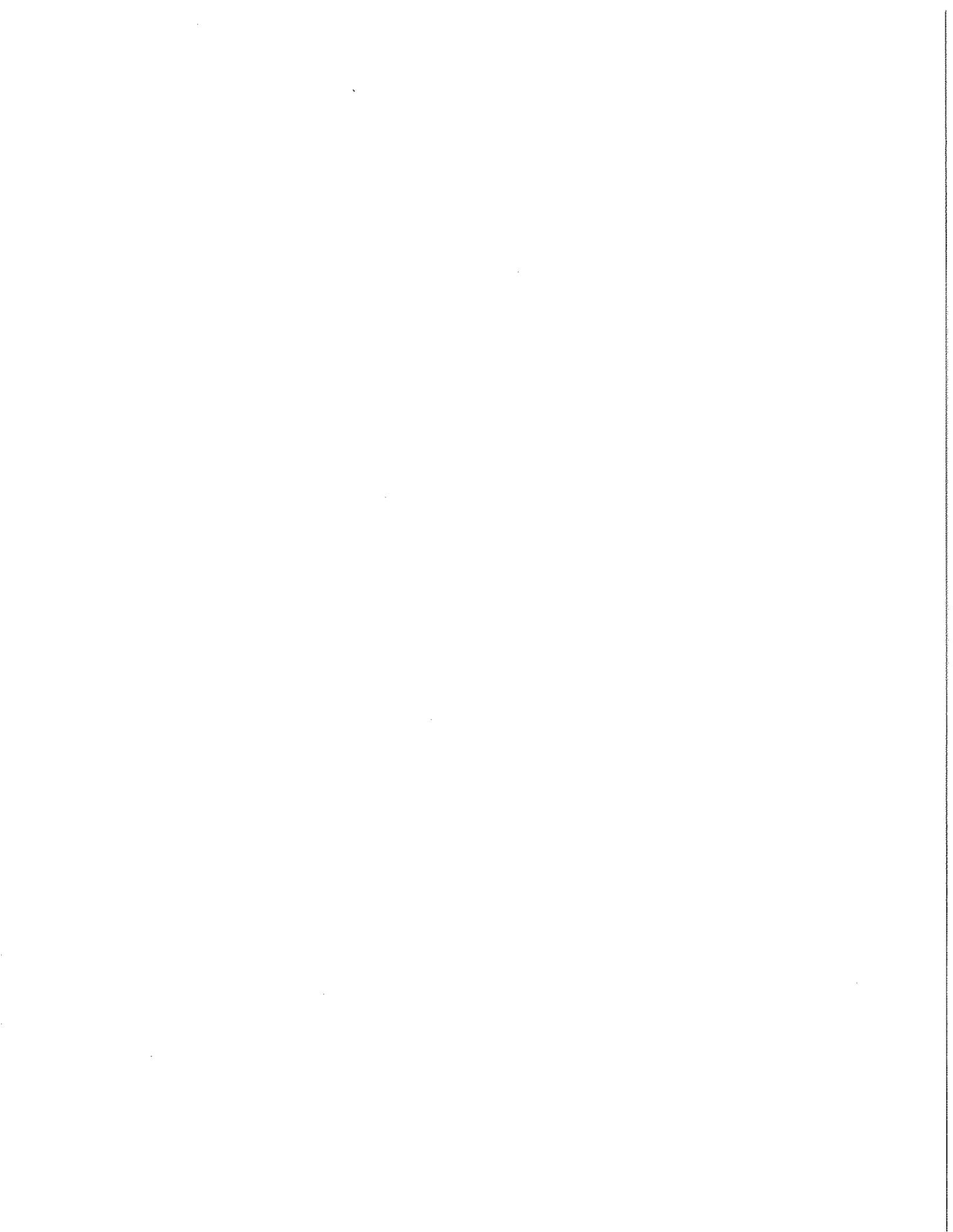
Alternative Suggested	DATCP Response
<ul style="list-style-type: none"> • Redefine as unwanted <i>household</i> prescription drugs. Definition should explicitly include drugs contained in sharps. • Add in unused EpiPens or add language to say we will also accept used or unused prefilled syringes and auto-injectors and define unwanted prescription drugs and insert in 34.04 (1) and include word household. • What is definition of pharmaceutical drug? Should we include OTC drugs? 	<ul style="list-style-type: none"> • Ch. 93, Stats., gives DATCP authority to make grants for the collection of "unwanted prescription drugs." The definition of unwanted prescription drugs was modified to emphasize households. • This was addressed as a permitted use of clean sweep funds. The recommended description of used or unused prefilled or auto-injectors is included. The definition of "unwanted prescription drug" now includes that they must come from a household. • The phrase "pharmaceutical drug" is not used in ATCP 34. "Nonprescription drug product" under s. 450.01 (13m), Stats., is now included in the definition of "unwanted prescription drug."

Prohibited Uses [s. 34.04 (3) (h)]	
Alternative Suggested	DATCP Response
<ul style="list-style-type: none"> Remove thermometers from description; the point is to specify prohibited uses of prescription drug grants but the suggested changes seem confusing. Suggest removing or rewording for clarity. DNR supports DATCP in accepting thermometers at HHW collections but not at household pharmaceutical collections. If the rule intends to include or exclude mercury containing thermometers, it should explicitly say, "mercury-containing thermometers." Bloody or infectious wastes is nebulous and subject to misinterpretation. DNR recommends this section refer to infectious waste as defined in s. 287.07(7)(c)1.c., Stats and described in NR 526.05. Should probably mention there is an exception that sharps that contain drugs are accepted. Should also include chemotherapy waste and items contaminated with chemotherapy agents. Suggest using same wording as in AB448, Amendment 1, page 2, lines 14-16. 	<ul style="list-style-type: none"> The description of prohibited items was modified. Same as above. These terms were modified to better fit with current statute and NR code.
Hazardous Waste Contractor [s. 34.16 (4) (a)]	
Alternative Suggested	DATCP Response
<p>Remove the word "all" or pull out controlled substances from 3. Or create 34.16 (4) 3. a. and insert "if handling controlled substances, contractor must be certified or licensed." Proposed changes can eliminate a waste contractor due to poor wording of definition. Also, under revised definition, controlled substances could no longer go to federal DEA or Covanta.</p>	<p>Section 34.16 (4) (a) 3 was modified to more clearly describe requirements for waste contractors that handle controlled substances.</p>
Reports and Payments [s. 34.18]	
Alternative Suggested	DATCP Response
<p>DNR recommends that DATCP specifically request the following information from those collecting hazardous waste and drugs:</p> <ul style="list-style-type: none"> Total weight of drugs collected in pounds Whether or not waste was sorted Weights of controlled or non-controlled substances, if known Whether or not weights include packaging Total volume if known. 	<p>Details of final report requirements are listed in the Final Report Requirements and Waste Summary Sheet. Some of this information is collected (total weight, controlled and non-controlled). Sorting waste and knowing if packaging was included or excluded could provide more accurate measurements of collections. All collected drugs are reported in pounds and use of that measurement will continue.</p>
<p>The following comments received from the Department of Natural Resources do not pertain to proposed rule changes but are general comments and recommended changes to the rule.</p>	
Alternative Suggested	DATCP Response
<p>DATCP has the incorrect reference for the definition of Very Small Quantity Generator in 34.02 (18). Should be NR 660.10 (139).</p>	<p>This was corrected.</p>

Unclear that VSQG is included as a type of acceptable waste under proposed definitions of "permanent" and "temporary" collections.	Collections have the option to accept VSGQ waste. DATCP rule authority does not allow DATCP to provide grants for VSQG waste disposal. DATCP can provide a 50% disposal cost subsidy to a county for agricultural pesticides. VSQG participation can be considered within the grant application evaluation.
Reconcile terms and meanings used in ATCP 34 with those used in AB 448 and in DNR and DHS Guidance. a) Household Applicability: change unwanted prescription drugs to unwanted <i>household</i> prescription drugs. b) Define the term <i>household</i> to conform to state and federal waste management regulations. c) Items to be collected d) Items not to be collected.	Appropriate terms and meanings were modified as appropriate, including "unwanted prescription drugs" and "household hazardous waste." Defined items that may be covered by grants must fall within the authority granted by ch. 93, Stats. See previous comments.
Rule Analysis: Do not use the term dual waste in the analysis. Instead "items considered both to be infectious waste and hazardous waste."	This change was made to be consistent and accurate with terminology.
Rule Analysis: Under "Related Rules or Statutes" there is incorrect citation of statutes and rules (see DNR letter.)	This was corrected.
Economic Impact Comments	
Definition of VSQG [s. 34.02(18)]	
Alternative Suggested	DATCP Response
The term 'very small quantity generator' is currently defined under ATCP s. 34.02(18), but the current definition does not reference the correct portion of DNR's rules. The definition under s. 34.02(18) should reference the definition of VSQG at s. NR 660.10(139), instead of s. NR 662.220. It is also unclear that VSQG waste is included as a type of acceptable waste under the current proposed DATCP definitions of 'permanent collection' and "temporary collection".	This was corrected. DATCP lacks authority to provide grants for VSQGs. DATCP can consider VSQG participation within grant application evaluation. Note that VSQG is defined in s. 34.02 (18). The code reference was updated.
Under the "Related Rules or Statutes" section, a sentence: "Waste management is governed by ch. 289, Stats., and ch. NR 500, Wis. Admin Code". The disposal of waste pesticide is regulated under both NR 600 series rules and NR 500 series rules, depending if they are solid, infectious or hazardous waste. Also, no mention of the state hazardous waste rules in the related rules or statutes section. DNR is authorized by EPA to administer the federal hazardous waste program in Wisconsin, so you should cite state statutes and rules and not the federal rules. Please revise this section to be more complete.	This section was revised.
Continuous Collection Event [s. 34.02 (6)]	
Alternative Suggested	DATCP Response
Section 3, Line 8. DATCP amended the previous definition of "Continuous collection event". We recommend deleting the definition and references to 'continuous collection.' The DNR rule includes continuous collection under the permanent collection facility definition, found at s. NR 666.901(5), Wis. Adm. Code.	See previous discussion. Ch. ATCP 34 definition for continuous collection relates to days of collection, not for storage as DNR's definition.

Household Hazardous Waste [s. 34.02 (13)]	
Alternative Suggested	DATCP Response
<p>Section 4, Line 13. DATCP added the sentence "Household hazardous waste also includes unwanted prescription drugs." We are concerned that this statement is overly broad and could be interpreted to include sources of unwanted prescription drugs that do not qualify under the household exemption. We recommend changing the added sentence to say "Household hazardous waste also includes unwanted prescription drugs generated from households."</p>	<p>Under the authority granted to DATCP under ch. 93, DATCP must use the term "unwanted prescription drugs." The definition was modified to emphasize the unwanted prescription drugs must be sourced from a household.</p>
Permanent Collection [s. 34.02 (14g)]	
Alternative Suggested	DATCP Response
<p>Section 5, line 1. DATCP adds a definition of "Permanent Collection." The DNR regulates the design and operation of household and very small quantity generator hazardous waste collection facilities under NR 666 subchapter HH. The current proposed DATCP rule does not include very small quantity generator waste in the definition of permanent collection. We request DATCP strongly consider either modifying the proposed definition of permanent collection in s. ATCP 34.02 (14g) so that it is consistent with the existing WDNR definition of "permanent collection facility" in s. NR 666.901 (5), Wis. Adm. Code or consider referencing the WDNR definition directly, as reproduced below: NR 666.901 (5) "Permanent collection facility" means a collection facility where household hazardous waste or very small quantity generator waste, or both, is collected or stored for more than 5 consecutive days.</p>	<p>See previous discussion. The definition relates to the number of collection days. It does not relate to the storage of hazardous waste. Those collections that do store hazardous waste are permitted by DNR a note was added to the rule as a reminder of the permitting requirement.</p>
Temporary Collection [s. 34.02 (17)]	
Alternative Suggested	DATCP Response
<p>Section 6, line 8. DATCP proposed to amend the definition of "Temporary collection event". The DNR regulates the design and operation of household and very small quantity generator hazardous waste collection facilities under NR 666 subchapter HH. The current proposed DATCP rule does not include VSQG waste in the definition of temporary collection. We request DATCP strongly consider either modifying the proposed definition of temporary collection in s. ATCP 34.02 (17) so it is consistent with the existing WDNR definition of "temporary collection facility" in s. NR 666.901 (6), Wis. Adm. Code or consider referencing the WDNR definition directly, as reproduced below.</p> <p>NR 666.901(6) "Temporary collection facility" means a collection facility where household hazardous waste or very small quantity generator waste, or both, is collected or stored for no more than 5 consecutive days.</p>	<p>See previous discussion. The rule bases temporary and continuous based on days of collections and the use of the state hazardous waste contractor.</p>

Hazardous Waste Contractor for Permanent and Continuous Collections [s. 34.16 (4) 3]	
Alternative Suggested	DATCP Response
<p>Section 27. ATCP 34.16 (4) 3. "...hazardous waste contractor that is qualified to do all of the following:</p> <p>3. Collect, pack and transport poison solids, poison liquids, flammables and unwanted prescription drugs including controlled substances to waste management sites licensed or permitted by federal and state governments."</p> <p>Comment: Must a contractor be able to handle ALL of material listed above? To be able to handle controlled substances a contractor must be a registered reverse distributor. A potential consequence of this would be that Brown County either does not seek DATCP funds or would have to find a hazardous waste contractor who is also a reverse distributor to request DATCP funds as Brown County's current contractor, Tradebe, is not a registered reverse distributor.</p>	<p>The wording will be modified to say that a waste contractor that handles controlled substances must be properly registered.</p>
Final Report [s. 34.18 (1) (b) and (c)]	
Alternative Suggested	DATCP Response
<p>Section 28. (1) (b) – <i>"(b) The types and amounts of chemical wastes and unwanted prescription drugs collected."</i> Comment: Would prescription drugs need to be sorted? What types of categories would the unwanted prescription drugs be sorted into? And, with potential DEA rules, prescription drugs may not be able to be sorted out or collected at all.</p> <p>Also do we capture cost of paid labor? Donated labor and advertising?</p>	<p>The current waste summary sheet used by DATCP only asks for a breakdown of the collected items, if possible.</p> <p>Labor costs can be captured on final report expense sheet. Donated labor is not listed as there is no equitable way to place a value on volunteer time. Advertising could also be captured on final expense sheet if it is used as an in-kind match or a reimbursable expense.</p>
Prohibited Use of Funds for Chemotherapy Drugs and Aerosol Inhalers. [s. 34.04 (3) (h)]	
Alternative Suggested	DATCP Response
<p>Suggest prohibiting chemotherapy drugs and related paraphernalia. It is within our authority to protect collection workers as very few places accept chemotherapy drug waste.</p> <p>Suggest prohibiting the collection of aerosol inhalers.</p>	<p>Specific language prohibiting chemotherapy waste was added.</p> <p>DATCP has accepted collection of aerosol inhalers. However they must be handled separately and removed from any waste to be incinerated.</p>



**PROPOSED ORDER OF THE
STATE OF WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION
ADOPTING RULES**

1 The Wisconsin department of agriculture, trade and consumer protection proposes the following
2 permanent rule *to repeal* ATCP 34.06 (3) (a) 4. and (Note), (h) and (i), 34.08 (2) (g) and (h), 34.12 (2)
3 (f), 34.14 (1) (b), and 34.18 (1) (e); *to amend* ATCP 34.01 (intro.), 34.02 (6), (17), and (18), 34.04 (1)
4 (b), (2) (b) and (c), and (5) (b) (intro.), 34.06 (2) (intro.) and (a), (3) (intro.) and (a) 2., (b) to (d), (f), (g),
5 (m) and (Note), 34.08 (1), and (2) (title) and (intro.), and (a) to (e), 34.10 (2), (3) and (4) and (title),
6 34.12 (3) (a), 34.16 (1) (a), (2), (3) and (title), and (4) (title) and (a), 34.18 (1) (intro.), (a) to (d), and (f),
7 34.18 (2) (a) and (b); and *to create* ATCP 34.02 (5) (c), (6) (Note), (13m), (14g) and (Note), (17) (Note),
8 (17g), (17r) (a) and (b), 34.04 (1) (a) 3., 34.04 (2) (e) to (g), and 34.04 (3) (h) to (k), 34.06 (1) (Note),
9 34.10 (3m) and (Note), 34.16 (2) (Note), and 34.16 (4) 9.; *relating to* the clean sweep program.

**Analysis Prepared by the Department of
Agriculture, Trade and Consumer Protection**

This rule modifies ch. ATCP 34, Wis. Admin. Code, related to Wisconsin's "clean sweep" program. The department of agriculture, trade and consumer protection ("DATCP" or "department") administers the program pursuant to its authority in Chapter 93, Stats. The clean sweep program is designed to distribute grant funds to counties and municipalities. The funds pay for costs associated with collecting and safely disposing of agricultural pesticides, farm chemical waste and household hazardous waste that might otherwise pose a threat to public health or the environment. Program funds are also used to collect unwanted prescription drugs and veterinary drugs from individuals. This rule does not alter the level of available funding for the clean sweep program.

This rule will:

- Update provisions related to grant applications, grant evaluation and approval, grant contracts, reporting requirements, reimbursement procedures, selection of hazardous waste handlers, and other matters to keep up with developments in programs relating to the collection of hazardous wastes.

- Add standards for the statutory “unwanted prescription drugs” component of the clean sweep program to the rule.
- Amend the rule to resolve existing conflicts between the statute and rule concerning funding amounts for the grants and to take into consideration the overall needs of grant recipients.
- Reduce paperwork by permitting electronic applications for grants. Make changes to improve the administrative and operational efficiency of the “clean sweep” program.

Statutes Interpreted

Statutes Interpreted: ss. 93.55 and 93.57, Stats.

Statutory Authority

Statutory Authority: ss. 93.07 (1), 93.55 and s. 93.57, Stats.

Explanation of Agency Authority

DATCP has authority under s. 93.07 (1), Stats., to make regulations as necessary for the proper enforcement of Chapters 93 to 100, which includes the administration of the clean sweep grant program. Grants go to local governments for the collection of agricultural and household hazardous waste, including unwanted prescription drugs, as required under ss. 93.55 and 93.57, Stats. The department considers it necessary to adopt rules to establish the basis for grant determinations in order to effectuate these laws.

Related Rules or Statutes

Wisconsin statutes and rules relating to the manufacture, distribution, and use of pesticides in Wisconsin are set forth in ss. 94.67 to 94.71, Stats., and chs. ATCP 29 and 30, Wis. Admin. Code. Waste management is governed by ch. 289, Stats., and ch. NR 500, Wis. Admin. Code. The manufacture, distribution and dispensing of prescription drugs falls under the authority of the Pharmacy Examining Board. *See* ch. 450, Stats. “Veterinary prescription drugs” is defined in s. 453.02 (11), Stats. The Uniform Controlled Substances Act sets standards for prescription drugs that are “controlled substances,” pursuant to ch. 961, Stats. On April 8, 2014, 2013 Wisconsin Act 198 was published, which in part authorizes a political subdivision or a designee to operate a drug disposal program, effective July 1, 2015. Wisconsin clean sweep projects that collect unwanted prescription drugs will need to follow requirements in this statute.

Plain Language Analysis

Under the clean sweep program, DATCP distributes grants to counties and other local governments to assist in funding their hazardous waste collection events and permanent waste collection sites. The clean sweep program was established in 1990 to provide financial assistance to Wisconsin counties to collect unwanted agricultural pesticides. In 2004, the program expanded to provide grants to local governments to collect household hazardous wastes such as acids, flammable chemicals, mercury, lead paint, and

solvents. In 2007, Wis. Act 20 was enacted, which authorized the department to include the funding of county, municipal, and regional planning commission programs to collect unwanted prescription drugs, which include controlled substances, analgesics, anti-inflammatory drugs, antibiotics, gastrointestinal drugs, and antihistamines. DATCP implemented a pilot prescription drug program to develop standards for issuing grants related to collection of unwanted prescription drugs, and those standards are now incorporated into this rule.

Other changes in the rule are designed to improve the operational and administrative efficiency of the program for the department and local governments that participate in the “clean sweep” program. Since 1990, the program has matured and several current requirements are no longer needed. At the same time, the needs of the grant recipients have changed. These rule revisions address these changes and reflect the current state of hazardous waste collection in Wisconsin.

Rule Content

This rule amends ch. ATCP 34 relating to the clean sweep program. The following provides a summary of the rule changes by section topic:

Section on the Purpose of the Rule

The establishment of procedures for making grants to local governments to dispose of unwanted prescription drugs will be added to the “Purpose” section of the rule.

Section on Definitions

The term “unwanted prescription drug” is added and includes Schedule II to V controlled substances, and nonprescription drug products. It also includes prescribed and over-the-counter veterinary drugs. The definition specifically excludes chemotherapy drugs, trace chemotherapy waste, infectious waste, and products that contain elemental mercury like thermometers. The unwanted prescription drug must come from a place where the individual, a member of the individual’s household, an in-home hospice service, or an adult family home serving fewer than five adult members manages the use of the unwanted prescription drug.

When local governments first decided to collect pesticide and household wastes, they often held one- or two-day collection “events.” Since then, many local governments have expanded to multiple collections or have established permanent collection sites that offer convenience for local residents. The rule removes the term “event” and refers to a clean sweep project as a “collection.”

A “temporary collection” means a clean sweep project that collects hazardous waste five days or less in a calendar year. A “continuous collection” means a clean sweep project that collects chemicals on six or more days in a calendar year. Initially, comments during DATCP listening sessions on the clean sweep program showed a desire to broaden the gap in time periods between temporary and continuous collections, DATCP did amend these definitions in the initial hearing draft. However, comments received during the rule’s public hearings indicated that there was no benefit to be gained by the proposed change in definitions. In fact, some collection projects would be unable to stay at a continuous collection level, which would ability of local governments to serve their communities because temporary

collections must request lower funding levels. Therefore, DATCP's proposed change to broaden the gap between "temporary" and "continuous" collections was removed from the proposed final rule.

Section on Grants to Counties and Municipalities

- **Drug Drop Boxes.** Currently, clean sweep grant funds cannot be used to purchase permanent equipment. However, a large expense associated with the collection of unwanted prescription drugs is a drug drop box. These drop boxes are a secure place for residents to dispose of their unwanted prescription and veterinary drugs. The boxes typically are located within law enforcement agencies and are designed in such a way that drugs cannot be removed except by authorized personnel. The rule would allow a local government to request funds for the direct costs associated with the purchase and installation of a drug drop box.
- **Disposal of Dual-Hazardous Waste.** This rule will allow counties and municipalities to request reimbursement for the disposal of delivery devices that contain medication such as epinephrine auto-injectors (an example is an EpiPen®) or prefilled syringes. Disposal costs for sharps such as needles or lancets would remain ineligible for reimbursement.
- **Eligible Costs:** Direct Costs related to the collection and disposal of unwanted prescription drugs were specified within the hearing draft. In the final draft, some modifications were made to specify eligibility of the collection and disposal of mercury-containing devices under a household hazardous waste collection.
- **Prohibited Uses:** Prohibited uses of grant funds is expanded to include infectious waste, hypodermic needles and lancets, personal care products, and oxygen-containing devices.

Section on Grant Applications

- **Grant Solicitation Announcements.** This rule expands the methods of soliciting applications for clean sweep grant funds beyond just written announcements.
- **Grant Fund Amounts.** Wis. Admin. Code ch. ATCP 34 states that the department shall offer no less than \$400,000 for farm chemical waste collection and not less than \$200,000 for household hazardous waste collection. In recent years, the demand for the collection and disposal of household hazardous waste has outpaced agricultural pesticides and farm chemical waste. Also, with the statutory addition of grants for unwanted prescription drug collections in 2008, a different allocation of funds among the collection grants is now required. The new statutory language requires the department to offer a minimum of two-thirds of the available funds for household hazardous waste under s. 93.57, Stats. This rule reflects the change in statutory requirements and eliminates the conflict between rule and statute. This change is also supported by the data collected from clean sweeps in recent years. The demand for household hazardous waste disposal is increasing while the demand for agricultural waste disposal is declining. Household waste disposal demand is outpacing agricultural demand by about a 16:1 margin, based on 2013 collection data.

- **Grant Applications.** The current rule requires that grant applications be submitted on a form provided by the department. To keep up with changing and available technology such as electronic or web-based applications, the rule specifies that future applications will be submitted in a manner designated by DATCP.
- **Required Information in Applications.** Because of the gap between grant submittal and acceptance and the possibility that a grant may not be funded, this rule specifies that applicants no longer have to provide specific dates, locations and facilities for collections. The department will gather that information after grants are awarded. The rule also removes the requirement that an applicant describe its plans for collecting, handling and disposing of chemical waste. Clean sweep collections are not new and local governments and waste haulers have developed much experience since 1990. Finally, because multi-government collections are quite common as a way to reach more residents and gain efficiencies with collections, applicants no longer need to describe the role of each government participant under this rule.

Section on Evaluating Grant Applications

Evaluation of Eligible Applications. Under this rule, the department will modify the criteria used to assess clean sweep grant applications. Early in the program's history, applicants were encouraged to collect farm and household waste and determine what chemicals were of concern in their areas. Now the majority of applicants are experienced project coordinators familiar with local needs and available resources. For some, it is impractical to collect more than one waste type because there is no need. Because of the experience of the local government coordinators and their staff, evaluating an application based on its safety and suitability is no longer necessary. Coordination across multiple governments is encouraged and points are awarded for these types of collections, but it is no longer necessary to place a priority on such coordination.

Section on Grant Awards

Farm Waste and Household Waste. This proposed section reflects the changes in the statute for grant awards and removes the discrepancy between statute and rule. The current rule states that the department will annually award grants totaling at least \$400,000 for farm chemical waste, while the statute directs that the department to offer a minimum of two-thirds of the available funds for household hazardous waste. This rule corrects the discrepancy by taking into consideration the current appropriation under s. 20.115 (7) (va), Stats.

Section on Grant Contracts

- **Hazardous Waste Contract.** This rule removes the requirement that the written contract between the department and the clean sweep grant recipient include the recipient's contract with its hazardous waste contractor. The department has found that the information provided in the grant applications is sufficient to make awards.
- **Limited Funding.** Should the amount of grant funds available be insufficient to cover the awarded grants, the department has the ability to cancel one of more of the grants at its discretion.

Section on Collecting Waste Pesticides from Very Small Quantity Generators (VSQGs)

Generally, a “VSQG” is an individual or business who generates limited quantities of waste pesticides and can include certain hardware stores, farm supply stores, cooperatives, municipalities, or commercial pesticide applicators. This proposed section removes the requirement that a county must collect the license status of a VSQG licensed under ch. ATCP 29. As long as the VSQG’s name and address is captured, the department can verify licensure, if necessary.

Section on Hazardous Waste

Hazardous Waste Contractor. This proposed section incorporates unwanted prescription drug collection into the rule. It also removes the requirement that hazardous waste contractors selected by grant recipients attend a training session provided by the department. This was a necessary requirement in the early days of the program but is no longer needed since the program participants, including waste contractors, have gained experience and familiarity with the clean sweep program rules.

Section on Reports and Payments

Final Report. This proposed section allows for a 45-day extension on the final report deadline. Other required elements of the final report are consolidated within the rule. This proposed section removes the requirements to estimate future collection needs, the timing of collection and suggestions on how to collect chemical waste, which are considered no longer necessary with a mature program.

Comparison with Existing or Proposed Federal Statutes and Regulations

The United States environmental protection agency (EPA) administers the Resource Conservation and Recovery Act (RCRA), which includes regulations affecting the collection, movement, and disposal of hazardous agricultural and household waste. EPA has also adopted universal waste management rules under 40 CFR 273. Wisconsin’s “clean sweep” grantees and vendors must comply with all applicable RCRA and universal waste provisions.

Prescription drugs that are controlled substances are regulated under the federal Controlled Substance Act (21 USC 801) and the Controlled Substances Import and Export Act (21 USC 951). On September 9, 2014, the federal drug enforcement administration published its final regulations on prescription drug disposal under the Secure and Responsible Drug Disposal Act of 2010, which took effect on October 9, 2014. Wisconsin’s prescription drug “clean sweep” program must comply with all these federal laws and regulations.

Comparison with Rules in Adjacent States

The surrounding states of Illinois, Iowa, Michigan and Minnesota also collect unwanted pesticides, household hazardous waste or unwanted prescription drugs. The agencies involved, their funding sources, and distribution of funds vary greatly. Wisconsin is the only state that has one agency overseeing these various types of grants.

Illinois

Illinois offers a grant for agricultural and structural pesticide collections through the Illinois department

of agriculture. The Illinois environmental protection agency also offers four one-day collections for household hazardous waste and unwanted drugs, in addition to some county hosted events. Illinois's Prescription Pill and Drug Disposal Fund provides reimbursement to law enforcement agencies for collection, transport and incineration of medicines collected from residential sources.

Iowa

Iowa no longer holds household hazardous waste collection days and eliminated the award of grants to fund those one-day collections. Instead, the Iowa department of natural resources offers Regional Collection Centers (RCCs) that are open year-round. These RCCs take household waste but can also accept agricultural waste at their discretion. In addition to main RCCs, there are satellite RCC sites and mobile collections that contract with an RCC and travel within a county for collections. Iowa offers two kinds of funds: (1) reimbursement funds to cover operating expenses/disposal costs, and (2) establishment funds to help a county set up a permanent site. Unlike Wisconsin's clean sweep program, Iowa allows its funds to be used to build permanent facilities.

Iowa also offers a pharmaceutical disposal program called TakeAway, in which patients or caregivers can bring unwanted or expired medicines to participating TakeAway pharmacies. The pharmacist will dispose of the returned medications (prescription drugs or over-the-counter products) into a waste bin specially designed to safely store discarded pharmaceutical products, along with their packaging. Once filled, the TakeAway system is sealed and shipped to a medication disposal facility where the system and its contents are incinerated at a waste-to-energy facility. Some participating pharmacies also sell TakeAway envelopes, pre-addressed, postage pre-paid large envelopes that can be taken into the home, filled with unused and expired medicine, and mailed through the United States postal service to the disposal facility. Controlled substances must go to law enforcement or one of the United State drug enforcement administration collections.

Michigan

Michigan offers a clean sweep program for agricultural pesticides through its department of agriculture & rural development (MDARD). The Michigan department of environmental quality covers household collections, supported by an EPA grant. No grants are given. MDARD will cover the cost of transportation and disposal costs of pesticides collected at household events.

Minnesota

Minnesota enters into cooperative agreements with counties to collect non-agricultural and agricultural waste pesticides. For those counties without a cooperative agreement, the Minnesota department of agriculture (MDA) holds collections. Agricultural pesticides are collected every other year and household hazardous wastes are collected each year. MDA pays supplies, transportation and disposal costs and \$0.25/lb. for "reasonable overhead costs." The Minnesota pollution control agency (MPCA) provides stipends to counties for household hazardous waste collections. Stipends cover about 10 percent of costs and are determined by different formulas. Minnesota does not offer drug grants. Collections, transportation and disposal are overseen by county law enforcement and the counties pay all associated costs.

Summary of Factual Data and Analytical Methodologies

To develop this rule, four listening sessions were held throughout Wisconsin. Participants included representatives from local government entities that are current and past grant recipients, many of whom manage county or municipal solid waste programs. Comments were also received from law enforcement agencies that administer unwanted prescription drug collections.

Fiscal Impact

There will be no fiscal impact from this rule revision. The amount of available grant funds will not change under this rule revision nor have eligibility requirements changed. (See attached *Fiscal Estimate and Economic Impact Analysis*.)

Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of an Economic Impact Analysis

No supporting documents were used. DATCP relied on information obtained through the listening sessions (See Summary of Data and Analytical Methodologies, above), as well as any comments received through the economic impact analysis comment period.

Effects on Specific Businesses and Business Sectors

This rule revision will have no effect on small business. By statute, the department may only award grants under the clean sweep program to *local government entities* for expenses related to the collection of and disposal of unused agricultural pesticides, household waste, and unwanted prescription drugs. No changes have been made to the current rule that directly would impact small businesses. The rule will continue to benefit certain small businesses such as farmers, farm supply stores, and cooperatives that generate small quantities of waste pesticides per month, since clean sweep collections provide a no- or low-cost method of disposing of agricultural pesticides and other farm chemical waste.

DATCP Contact Information

Questions and comments related to this rule may be directed to:

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1 **SECTION 1.** ATCP 34.01 (intro.) is amended to read:

1 ATCP 34.01 **Purpose.** This chapter establishes procedures for the agricultural chemical and
2 container collection grant program under s. 93.55, Stats., and the household hazardous waste, and
3 unwanted prescription drug grant program programs under s. 93.57, Stats.

4 **SECTION 2.** ATCP 34.02 (5) (c) is created to read:

5 ATCP 34.02 (5) (c) Unwanted prescription drugs.

6 **SECTION 3.** ATCP 34.02 (6) is amended to read:

7 ATCP 34.02 (6) “Continuous collection-~~event~~” means a clean sweep project that collects
8 chemical waste or unwanted prescription drugs on at least 4 days in a calendar year.

9 **SECTION 4.** ATCP 34.02 (6) (Note) is created to read:

10 **Note:** Grant recipients will be responsible for verifying that any clean sweep project in which a
11 collection is made by a “temporary collection facility” or “permanent collection facility”
12 as defined in s. NR 666.901 meet all applicable ch. NR 666 regulations.
13

14 **SECTION 5.** ATCP 34.02 (13m) is created to read:

15 ATCP 34.02 (13m) “In-kind costs” means a payment given in goods, commodities or services,
16 rather than money.

17 **SECTION 6.** ATCP 34.02 (14g) and (Note) are created to read:

18 ATCP 34.02 (14g) “Permanent collection” means a clean sweep project that collects chemical
19 waste or unwanted prescription drugs under this program during at least 6 months of the year and
20 includes permanent infrastructure for waste collection.

21 **Note:** A clean sweep project for which a collection is made by a “permanent collection facility”
22 as defined in s. NR. 666.901 (5) must meet all applicable ch. NR 666 regulations.
23

24 **SECTION 7.** ATCP 34.02 (17) is amended to read:

25 ATCP 34.02 (17) “Temporary collection-~~event~~” means a clean sweep project that collects chemical
26 waste or unwanted prescription drugs on fewer than 4 days in a calendar year.

27 **SECTION 8.** ATCP 34.02 (17) (Note) is created to read:

1 **Note:** A clean sweep project for which a collection is made by a “temporary collection facility”
2 as defined in s. NR 666.901 (6) must meet all applicable NR 666 regulations.
3

4 **SECTION 9.** ATCP 34.02 (17g) and (17r) (a) and (b) are created to read:

5 ATCP 34.02 (17g) “Total project cost” means the sum of all reimbursable direct costs, as
6 provided under s. ATCP 34.04 (2), and in-kind costs.

7 (17r) (a) Except as provided under par. (b), “unwanted prescription drug” means
8 any of the following if lawfully possessed by an individual for the individual’s own use, for the use of a
9 member of the individual’s household, or for the use of an animal owned by the individual or a member
10 of the individual’s household, and if located in or comes from a place where the individual, a member of
11 the individual’s household, an in-home hospice service, or an adult family home serving fewer than 5
12 adult members manages the use of the unwanted prescription drug:

- 13 1. A prescription drug, as defined in s. 450.01(20);
- 14 2. A nonprescription drug product as defined in s. 450.01 (13m), Stats.
- 15 3. A veterinary prescription drug as defined in s. 453.02 (11), Stats.
- 16 4. A veterinary over-the-counter drug as defined in s. 453.02 (10), Stats.
- 17 5. A delivery device with a needle that contains a prescription drug or veterinary prescription
18 drug such as a pre-filled syringe or auto-injector, but not intravenous bags or tubing.

19 (b) An unwanted prescription drug does not include any of the following:

- 20 1. Chemotherapy drugs.
- 21 2. Trace chemotherapy waste as defined in s. NR 500.03 (237m).
- 22 3. Any item containing elemental mercury, such as a thermometer.
- 23 4. Infectious waste as defined in s. 287.07 (7) (c) 1.c., Stats.

24 **SECTION 10.** ACTP 34.02 (18) is amended to read:

1 ATCP 34.02 (18) "Very small quantity generator" has the meaning given in s. NR-666.220
2 660.10 (139).

3 **SECTION 11.** ATCP 34.04 (1) (a) 3. is created to read:

4 ATCP 34.04 (1) (a) 3. Unwanted prescription drugs.

5 **SECTION 12.** ATCP 34.04 (1) (b) and (2) (b) and (c) are amended to read:

6 ATCP 34.04 (1) (b) The department may award a clean sweep grant to a municipality for a clean
7 sweep project to collect household hazardous waste or unwanted prescription drugs.

8 ATCP 34.04 (2) (b) Direct costs for equipment rentals, supplies and services used to operate the
9 collection site and handle collected chemical waste or unwanted prescription drugs.

10 (c) Direct costs for county or municipal staff to receive and pack chemical waste at a continuous
11 or permanent collection event.

12 **SECTION 13.** ATCP 34.04 (2) (e) to (g) are created to read:

13 ATCP 34.04 (2) (e) Direct costs for purchase and installation of permanent drug drop boxes for
14 unwanted prescription drugs.

15 (f) Direct costs to hire a qualified waste contractor to receive, pack, transport and dispose of
16 unwanted prescription drugs.

17 (g) Direct costs for the collection and disposal of mercury containing devices including
18 thermometers or thermostats, are acceptable under household hazardous waste collections.

19 **SECTION 14.** ATCP 34.04 (3) (h) to (k) are created to read:

20 ATCP 34.04 (3) (h) Infectious waste as defined by s. 287.07 (7) (c) 1. c., Stats.

21 (i) Personal care products including soap, shampoo, and toothpaste.

22 (j) Medical devices or oxygen-containing devices for which another collection, disposal or
23 recycling option is available.

1 (k) Hypodermic needles or lancets.

2 **SECTION 15.** ATCP 34.04 (5) (b) (intro.) is amended to read:

3 ATCP 34.04 (5) (b) For a continuous or permanent collection event, a grant recipient's
4 contribution under par. (a) may include any of the following costs that are directly related to the
5 collection and handling of chemical waste collected at that event:

6 **SECTION 16.** ATCP 34.06 (1) (Note) is created to read:

7 **Note:** Pursuant to s. 20.002 (10), Stats., a grant by a state agency made to any city, county,
8 village, or town for any purpose also may be granted by that state agency to any federally
9 recognized tribal governing body for the same purpose.

10 **SECTION 17.** ATCP 34.06 (2) (intro.) and (a) are amended to read:

11 ATCP 34.06 (2) ANNOUNCEMENT SOLICITING GRANT APPLICATIONS. The department shall
12 issue an ~~written~~ announcement soliciting grant applications under sub. (1) for the next calendar year if
13 grant funding may be available for any part of that calendar year. The announcements shall specify the
14 general terms and conditions for grant awards, including all of the following:

15 (a) The total amount available for clean sweep project grants, including separate amounts available
16 for farm chemical waste collection projects and household hazardous waste collection projects. Subject
17 to budget appropriations, the department shall offer ~~no less than \$400,000 for farm chemical waste~~
18 ~~collection grants and no less than \$200,000~~ a minimum of two-thirds of the funds available from the
19 appropriation account under s. 20.115 (7) (va), Stats., for household hazardous waste collection grants.

20 **SECTION 18.** ATCP 34.06 (3) (intro.) and (a) 2. are amended to read:

21 ATCP 34.06 (3) APPLICATION CONTENTS. A county or municipality shall submit its grant
22 application under sub. (1) ~~on a form provided in a manner designated~~ by the department. The
23 application shall comply with requirements contained in the department's announcement under sub. (2)
24 and shall describe all of the following:
25

1 (a) 2. Whether the project will collect farm chemical waste, household hazardous waste or both.

2 Types of wastes collected.

3 **SECTION 19.** ATCP 34.06 (3) (a) 4. and (Note) are repealed.

4 **SECTION 20.** ATCP 34.06 (3) (b) to (d), (f) and (g) are amended to read:

5 (b) The proposed collection sites, if known.

6 (c) The proposed collection dates ~~and times,~~ if known.

7 (d) The proposed collection facilities ~~and procedures,~~ if known.

8 (f) A schedule of fees, if any, which the applicant proposes to charge to persons from whom it
9 collects ~~waste chemicals~~ chemical waste or unwanted prescription drugs. A county may not charge an
10 agricultural producer for the first 200 pounds of farm chemical waste collected from that agricultural
11 producer, but may charge fees for amounts over 200 pounds of farm chemical waste or for agricultural
12 producers disposing of any household hazardous waste or any unwanted prescription drugs.

13 (g) The hazardous waste contractor who will handle, transport and dispose of hazardous waste
14 or unwanted prescription drugs collected in the clean sweep project.

15 **SECTION 21.** ATCP 34.06 (3) (h) and (i) are repealed.

16 **SECTION 22.** ATCP 34.06 (3) (m) and (Note) are amended to read:

17 (m) The agency and individual that are primarily responsible for coordinating the project on
18 behalf of the applicant, and any other agencies involved in implementing the project. ~~If the project will~~
19 ~~involve multiple units of government, the application shall describe the role of each actively participating~~
20 ~~government unit.~~

21 Note: ~~Copies of the~~The grant application form and related evaluation criteria are available from
22 the department at the following address: Department of Agriculture, Trade and
23 Consumer Protection, Agricultural Resource Management Division, PO Box 8911,
24 Madison, WI 53708-8911 or <http://datcp.wi.gov>.
25

26 **SECTION 23.** ATCP 34.08 (1), (2) (title) and (intro.), and (a) to (e) are amended to read:

1 ATCP 34.08 **Evaluating grant applications.** (1) DETERMINING ELIGIBILITY. The department
2 shall review each grant application under s. ATCP 34.06 (3) to determine whether it complies with
3 minimum eligibility requirements under this chapter. ~~The department shall conduct this review before~~
4 ~~the department ranks eligible grant applications under sub. (2).~~ The department shall reject grant
5 applications that fail to meet minimum eligibility requirements, or that fail to comply with application
6 procedures prescribed under s. ATCP 34.06 (2).

7 (2) ~~RANKING~~ EVALUATING ELIGIBLE GRANT APPLICATIONS. The department shall ~~rank~~ evaluate
8 each year's eligible grant applications under s. ATCP 34.06 (1). The department may consider the
9 following criteria, and other criteria set forth in the department's notices under s. ATCP 34.06 (2):

10 (a) The types of chemical wastes or unwanted prescription drugs to be collected. ~~The department~~
11 ~~may give priority to projects that do one or more of the following:~~

- 12 1. ~~Collect both farm chemical waste and household hazardous waste.~~
- 13 2. ~~Collect a wide variety of chemical wastes.~~
- 14 3. ~~Collect waste pesticides from very small quantity generators.~~
- 15 4. ~~Effectively target chemical wastes of special concern in the project area.~~

16 (b) The extent to which the project coordinates the efforts of state and local government and
17 other interested parties. ~~The department may give priority to projects that achieve cost efficiencies by~~
18 ~~combining the efforts of counties, municipalities, or counties and municipalities.~~

19 (c) The convenience of the collection service. The department may give priority to projects
20 offering conveniences, such as continuous collection events or permanent collections, multiple
21 collection locations and multiple collection periods, which are reasonably designed to maximize public
22 participation.

1 (d) The scope and quality of the public information and promotional program that will
2 accompany the project. The department may give priority to projects that are effectively designed to do
3 the following:

- 4 1. Reach and involve target audiences holding chemical wastes or unwanted prescription drugs.
- 5 2. Minimize future generation of chemical waste or unwanted prescription drugs.

6 (e) Innovation. The department may give priority to applicants that offer new collection sites or
7 other sound innovations designed to increase public participation, decrease waste generation, increase
8 waste collection or expand geographic outreach.

9 **SECTION 24.** ATCP 34.08 (2) (g) and (h) are repealed.

10 **SECTION 25.** ATCP 34.10 (2) and (3) are amended to read:

11 ATCP 34.10 (2) FARM CHEMICAL WASTE COLLECTION PROJECTS. The department shall annually
12 award clean sweep grants for farm chemical waste collection projects based on the ranking evaluation
13 under s. ATCP 34.08 (2). ~~The department shall annually award grants totaling at least \$400,000 for~~
14 ~~farm chemical waste collection projects, subject to eligible grant application requests and available~~
15 ~~appropriations.~~

16 (3) HOUSEHOLD HAZARDOUS WASTE COLLECTION PROJECTS. The department shall annually
17 award clean sweep grants for household hazardous waste collection projects based on the ranking
18 evaluation under s. ATCP 34.08 (2). ~~The department shall annually award grants totaling at least~~
19 ~~\$200,000 for household hazardous waste collection projects, subject to eligible grant application~~
20 ~~requests and available appropriations~~ a minimum of two-thirds of the funds available from the
21 appropriation account under s. 20.115 (7) (va), Stats.

22 **SECTION 26.** ATCP 34.10 (3m) and (Note) are created to read:

1 ATCP 34.10 (3m) UNWANTED PRESCRIPTION DRUG COLLECTION PROJECTS. The department
2 shall annually award clean sweep grants for unwanted prescription drug collection projects based on the
3 evaluation under s. ATCP 34.08 (2).

4 Note: Unwanted prescription drug collection projects must comply with drug disposal program
5 requirements in s.165.65, Stats., effective 7-01-15 created by 2013 Wis. Act 198.
6

7 SECTION 27. ATCP 34.10 (4) and (title) is amended to read:

8 ATCP 34.10 (4) ~~REMAINING GRANT FUNDS~~ GRANT FUNDING. The department shall annually
9 award a minimum of two-thirds of the funds available from the appropriation account under s. 20.115
10 (7) (va), Stats., for household hazardous waste collection projects and unwanted prescription drug
11 projects. The remaining funds go to farm chemical waste collection projects. Following awards under
12 subs. (2) ~~and (3) and (3m)~~, the department may award grant funds for other projects ~~based on their~~
13 ~~ranking under s. ATCP 34.08 (2)~~, without regard to whether the projects will collect farm chemical
14 ~~waste, or household hazardous waste or unwanted prescription drugs.~~

15 SECTION 28. ATCP 34.12 (2) (f) is repealed.

16 SECTION 29. ATCP 34.12 (3) (a) is amended to read:

17 ATCP 34.12 (3) (a) Cancel one or more of the grants in the reverse order in which they were
18 awarded.

19 SECTION 30. ATCP 34.14 (1) (b) is repealed.

20 SECTION 31. ATCP 34.16 (1) (a) and (2) are amended to read:

21 ATCP 34.16 (1) COUNTY OR MUNICIPALITY RESPONSIBLE AS WASTE GENERATOR. (a) Except as
22 provided in par. (b) or (c), a grant recipient shall take responsibility, as a hazardous waste generator
23 under the resource conservation and recovery act, for hazardous waste, as well as unwanted prescription
24 drugs, that the grant recipient collects under a funded clean sweep project. As a hazardous waste

1 generator, the grant recipient shall comply with applicable requirements under s. 291.21, Stats., and the
2 resource conservation and recovery act related to that hazardous waste.

3 (2) HAZARDOUS WASTE CONTRACTOR; GENERAL. A grant recipient shall contract with a
4 hazardous waste contractor to receive, pack, transport and dispose of hazardous wastes or unwanted
5 prescription drugs collected under the funded clean sweep project. The hazardous waste contractor shall
6 ~~attend training provided by the department and shall comply with applicable requirements under this~~
7 ~~chapter. The grant recipient shall select a hazardous waste contractor that has attended the most recent~~
8 ~~training session provided by the department.~~

9 SECTION 32. ATCP 34.16 (2) (Note) is created to read:

10 Note: Management of controlled substances must follow the regulations under the federal drug
11 enforcement administration's final rule for the disposal of controlled substances, which
12 implements the Secure and Responsible Drug Disposal Act of 2010, and includes using
13 law enforcement to handle controlled substances where applicable.

14 SECTION 33. ATCP 34.16 (3) and (title) and (4) and (title) and (a) are amended to read:

15 ATCP 34.16 (3) HAZARDOUS WASTE CONTRACTOR FOR TEMPORARY COLLECTION EVENT. For a
16 temporary collection event, a grant recipient shall contract under sub. (2) with the hazardous waste
17 contractor ~~who~~ that manages the state of Wisconsin's hazardous wastes under the cooperative state
18 purchasing agreement.

19 (4) HAZARDOUS WASTE CONTRACTOR FOR PERMANENT OR CONTINUOUS COLLECTION ~~EVENT~~. (a)
20 For a permanent or continuous collection ~~event~~, a grant recipient shall contract under sub. (2) with a
21 hazardous waste contractor that is qualified to do ~~all of~~ the following:

22 SECTION 34. ATCP 34.16 (4) 9. is created to read:

23 ATCP 34.16 (4) 9. Comply with applicable state and federal laws relating to the segregation,
24 packing, and transportation of unwanted prescription drugs, including controlled substances, if unwanted
25 prescription drugs are collected.

1 **SECTION 35.** ATCP 34.18 (1) (intro.) and (a) to (d) are amended to read:

2 ATCP 34.18 (1) FINAL REPORT. A grant recipient shall provide the department with a final
3 report on a clean sweep project within 60 days after the grant recipient completes the project. The
4 department may grant an extension, not to exceed 45 days, if requested within the 60-day period. The
5 final report shall include all of the following:

6 (a) The number of persons who delivered chemical waste or if known, unwanted prescription
7 drugs, for collection.

8 (b) The types and amounts of chemical wastes and unwanted prescription drugs collected.

9 (c) The total cost of the project. The report shall include supporting documentation, including
10 invoices for the transportation and disposal of chemical waste and unwanted prescription drugs.

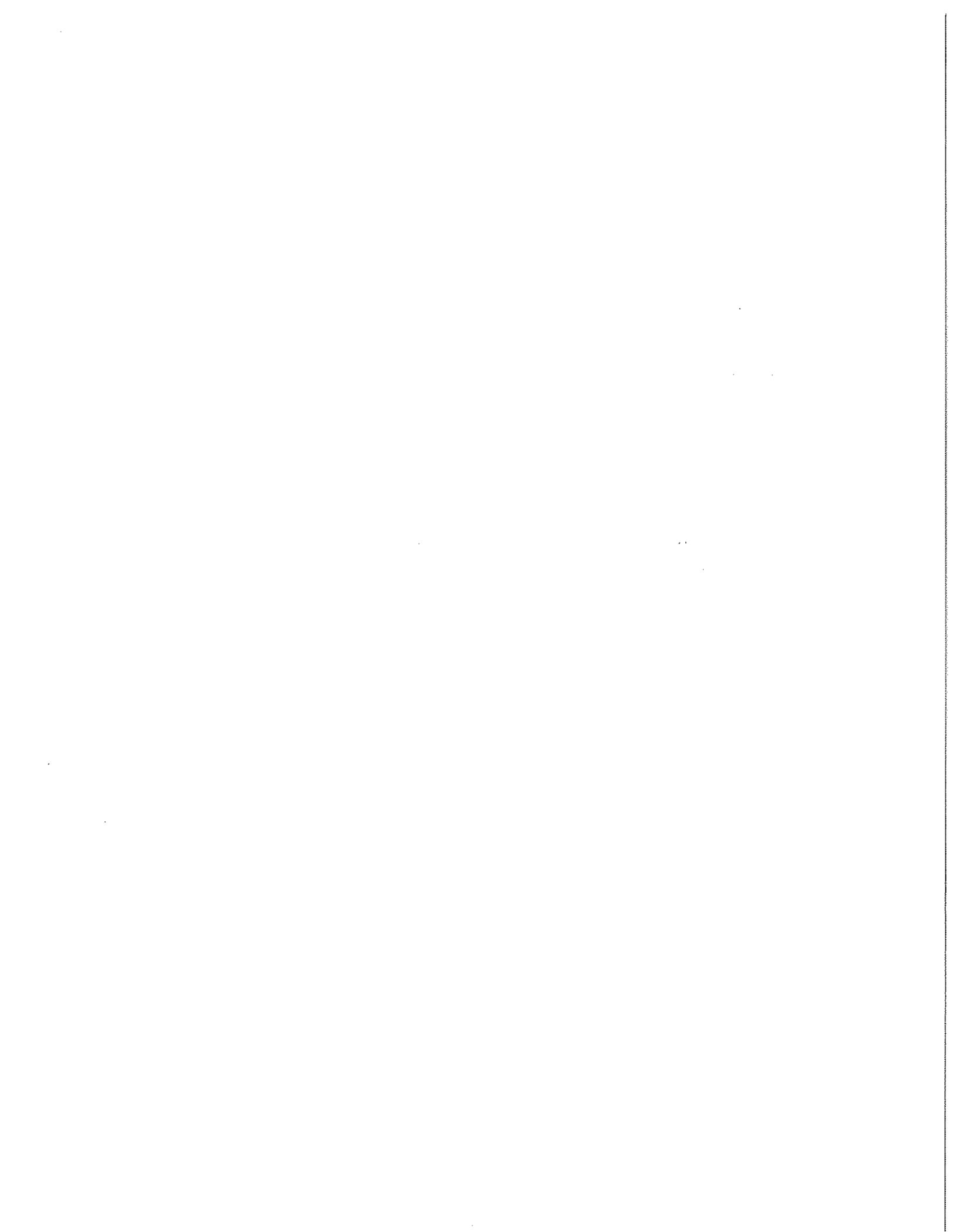
11 (d) An evaluation of the project, including the need for future clean sweeps projects, if any, and
12 the appropriate timing of those projects, an identification of problems and possible solutions, the public
13 information program conducted in connection with the project, and suggestions on how to collect
14 chemical waste or unwanted prescription drugs in the future.

15 **SECTION 36.** ACTP 34.18 (1) (e) is repealed.

16 **SECTION 37.** ATCP 34.18 (1) (f) is amended to read:

17 ATCP 34.18 (1) (f) An estimate of future chemical waste or unwanted prescription drug
18 collection needs. ~~The report shall estimate future needs based, in part, on collections at the completed~~
19 ~~clean sweep project. The report shall discuss the need for future clean sweep projects, if any, and the~~
20 ~~appropriate timing of those projects. It shall also include suggestions on how to collect chemical waste~~
21 ~~in the future.~~

22 **SECTION 38.** ATCP 34.18 (2) (a) and (b) are amended to read:



Wisconsin Department of Agriculture, Trade and Consumer Protection

Final Regulatory Flexibility Analysis

Rule Subject: Clean Sweep Grant Program
Adm. Code Reference: ATCP 34
Rules Clearinghouse #: 14-007
Department Docket #: 12-R-05

Rule Summary

General

This proposed rule will modify the clean sweep grant program under ATCP 34 to incorporate a prescription drug clean sweep program and to improve operational and administrative efficiency for the departments and local governments who receive clean sweep grant funds.

Specifically, 2007 Wis. Act 20 authorized DATCP to expand the Clean Sweep Grant Program to include grants for county and local government to collect unwanted prescription drugs. DATCP has implemented a pilot prescription drug program since 2008 and now proposes to develop rules for a permanent program. The proposed rule does not change the level of available funding for clean sweeps.

Amendments to ATCP 34 will resolve existing conflicts between the statute and rule concerning funding amounts for the grants and take into consideration the overall needs of grant recipients. Rule modifications would also reduce paperwork for clean sweep grant applicants and grantees by permitting electronic applications. Rule revisions will also update provisions related to grant applications, grant evaluation and approval, grant contracts, reporting requirements, reimbursement procedures, selection of hazardous waste handlers, and other matters to keep up with developments to programs relating to the collection of hazardous wastes. These changes will improve the administrative and operational efficiency of the Clean Sweep Program.

This rule modifies ch. ATCP 34, Wis. Admin. Code, related to Wisconsin's Clean Sweep Program. The Department of Agriculture, Trade and Consumer Protection ("DATCP" or "department") administers the program pursuant to its authority in Chapter 93, Stats. The Clean Sweep Program is designed to distribute grant funds to counties and municipalities. The funds pay for costs associated with collecting and safely disposing of agricultural pesticides, farm chemical waste and household hazardous waste that might otherwise pose a threat to public health or the environment. Program funds are also used to collect unwanted prescription drugs and veterinary drugs from individuals. This rule does not alter the level of available funding for the Clean Sweep Program.

This rule will:

- Update provisions related to grant applications, grant evaluation and approval, grant contracts, reporting requirements, reimbursement procedures, selection of hazardous waste handlers, and other matters to keep up with developments in programs relating to the collection of hazardous wastes.
- Add standards for the statutory prescription drug component of the Clean Sweep Program to the rule.
- Amend the rule to resolve existing conflicts between the statute and rule concerning funding amounts for the grants and to take into consideration the overall needs of grant recipients.
- Reduce paperwork by permitting electronic applications for grants. Make changes to improve the administrative and operational efficiency of the Clean Sweep Program.

Small Businesses Affected

This rule revision will have no effect on small business. By statute, the department may only award grants under the clean sweep program to *local government entities* for expenses related to the collection of and disposal of unused agricultural pesticides, household waste, and unwanted prescription drugs. No changes have been made to the current rule that would impact small businesses. The proposed rule will continue to benefit certain small businesses such as farmers, farm supply stores, and cooperatives that generate small quantities of waste pesticides per month, since clean sweep collections provide a no- or low-cost method of disposing of agricultural pesticides and other farm chemical waste.

Reporting, Bookkeeping and other Procedures

The proposed rule does not create any new reporting, bookkeeping or other procedures for small businesses.

Professional Skills Required

The proposed rule does not require any new professional skills by small businesses.

Accommodation for Small Business

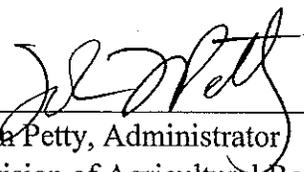
This rule revision will have no effect on small business. The rule proposal will continue to benefit certain small businesses such as farmers, agricultural supply companies and cooperatives that generate small quantities of waste pesticides.

Conclusion

This rule will have no effect on small business. Certain small businesses such as farmers, farm supply stores, cooperatives or other businesses that use agricultural pesticides will continue to use clean sweeps to dispose of unwanted hazardous waste and will benefit from the rule.

Dated this 4th day of November, 2014.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By  _____
John Petty, Administrator
Division of Agricultural Resource Management

ADMINISTRATIVE RULES FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS

Type of Estimate and Analysis

Original Updated Corrected

Administrative Rule Chapter, Title and Number

Chapter ATCP 34, Clean Sweep Program

Subject

Clean sweep grant program

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Chapter 20, Stats. Appropriations Affected

20.115(7) (va), Stats.

Fiscal Effect of Implementing the Rule

No Fiscal Effect
 Indeterminate

Increase Existing Revenues
 Decrease Existing Revenues

Increase Costs
 Could Absorb Within Agency's Budget
 Decrease Costs

The Rule Will Impact the Following (Check All That Apply)

State's Economy

Specific Businesses/Sectors

Local Government Units

Public Utility Rate Payers

Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

Policy Problem Addressed by the Rule

This proposed rule makes changes to improve the administrative and operational efficiency of the "clean sweep" program (ch. ATCP 34, Wis. Admin. Code), which provides grants to local governments for the collection and safe disposal of agricultural pesticides, farm chemical waste and household hazardous waste. Program funds also are used to collect unwanted prescription and veterinary drugs from individuals. This rule (1) updates provisions related to grant applications, grant evaluation and approval, grant contracts, reporting requirements, reimbursement procedures, selection of hazardous waste handlers, and other matters to keep up with developments in programs relating to the collection of hazardous waste; (2) adds standards for the statutory prescription drug component of the clean sweep program to the rule; (3) amends the rule to resolve existing conflicts between the statute and rule concerning funding amounts for the grants and to take into consideration the overall needs of grant recipients; and (4) reduces paperwork by permitting electronic applications for grants. This rule does not alter the level of available funding for the clean sweep program.

Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

Effects on Specific Businesses and Business Sectors

This proposed rule revision deals with the clean sweep program, which awards grants only to *local government entities* for expenses related to the collection of and disposal of unused agricultural pesticides, household waste, and unwanted prescription drugs. Accordingly, the rule does not directly impact businesses or business sectors. The funding of local governments' waste disposal programs come from other sources besides the clean sweep program, including coverage of their own costs. The proposed rule will continue to benefit certain small businesses such as farmers, farm supply stores, and cooperatives that generate small quantities of waste pesticides per month, since clean sweep collections provide a no- or low-cost method of disposing of agricultural pesticides and other farm chemical waste.

Local Governments

The grants provided under the current clean sweep program assist local governments and tribal nations that are eligible to apply for and receive clean sweep grants. The grants are used to reimburse eligible costs related to the collection and proper disposal of hazardous waste, unused agricultural chemicals, and unwanted prescription drugs. Proposed rule changes would streamline the application process and provide administrative and operational efficiencies. The proposed rule does not change the level of available funding for "clean sweeps."

Public Utility Rate Payers

This rule will have no impact on utility rate payers as a group.

State's Economy

While it is difficult to assess the rule's specific impact on the state's economy as a whole, the overall impact is expected to be negligible due to the fact that the amount of grant funding available for grants under the clean sweep program will not change the proposed rule.

Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Benefits

The rule will benefit local governments, as inconsistencies between the statute and rule would be addressed and greater efficiency and streamlining of the grant application process will occur. Since 1990, the program has matured and several current requirements for applications are no longer needed. Final reporting requirements have also been simplified. The rule will also reduce paperwork by permitting electronic submittal for grant applications. The general public benefits from the program as they have a safe no- or low-cost disposal option for household hazardous waste and unwanted prescription drugs. Some local governments will suspend a nominal collection fee because of the grant.

Alternatives

If DATCP takes no action, current rules will remain in effect. However, the current rules are outdated and inconsistent in certain respects. This rule would create permanent rules concerning the prescription drug component of the program and allow for the modernization and streamlining of the "clean sweep" program overall.

Long Range Implications of Implementing the Rule

Long-term, the rule will continue to benefit local governments, farmers, businesses, and the general public. Grant funds provide for the collection and proper disposal of unwanted agricultural pesticides, farm chemicals, household hazardous waste and unwanted prescription drugs. The program will be streamlined for greater efficiency and will remove known conflicts between statute and rule.

Compare With Approaches Being Used by Federal Government

The United States Environmental Protection Agency (EPA) administers the Resource Conservation and Recovery Act (RCRA), which includes regulations affecting the collection, movement, and disposal of hazardous agricultural and household waste. EPA has also adopted universal waste management rules under 40 CFR 273. Wisconsin's "clean sweep" grantees and vendors must comply with all applicable RCRA and universal waste provisions.

Prescription drugs that are controlled substances are regulated under the federal Controlled Substances Act (21 USC 801 et seq.) and the Controlled Substances Import and Export Act (21 USC 951 et seq.). Wisconsin's prescription drug "clean sweep" program must comply with these and related federal laws.

In 2009, the U.S. Department of Justice Drug Enforcement Administration proposed a rule (DEA-316A: Disposal of Controlled Substances by Person Not Registered with the Drug Enforcement Administration) seeking options for the safe and responsible disposal of controlled substances in a manner consistent with the Controlled Substances Act (CSA). This federal regulation was enacted on October 9, 2014. The final federal rule will not impact Wisconsin's current "clean sweep" unwanted prescription drug collection grant program

nor will it affect this proposed rule.

Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Surrounding states also collect unwanted pesticides, household hazardous waste, and unwanted prescription drugs. The agencies involved, their funding sources, and distribution of funds vary greatly. Wisconsin is the only state that has one agency overseeing these types of grants.

Illinois

Illinois offers a grant for agricultural and structural pesticide collections through the Illinois Department of Agriculture. The Illinois Environmental Protection Agency also offers four, one-day collections for household hazardous waste and unwanted drugs, in addition to some county-hosted events. Illinois' Prescription Pill and Drug Disposal fund provides reimbursement to law enforcement agencies for collection, transport and incineration of medicines collected from residential sources.

Iowa

Iowa no longer holds hazardous waste collection days and eliminated the award of grants to fund those one-day collections. Instead, the Iowa Department of Natural Resources offers Regional Collection Centers (RCCs) that are open year-round. These RCCs take household waste but can also accept agricultural waste at their discretion. In addition to main RCCs, there are satellite RCC sites and mobile collections that contract with an RCC and travel within a county for collections. Iowa offers two kinds of funds: (1) reimbursement funds to cover operating expenses/disposal costs, and (2) establishment funds to help a county set up a permanent collection site. Unlike Wisconsin's clean sweep program, Iowa allows its funds to be used to build permanent facilities.

Iowa also offers a pharmaceutical disposal program called TakeAway in which patients or caregivers can bring unwanted or expired medicines to participating TakeAway pharmacies. The pharmacist will dispose of the returned medications (prescription drugs or over-the-counter products) into a waste bin specially designed to safely store discarded pharmaceutical products, along with their packaging. Once filled, the TakeAway system is sealed and shipped to a medication disposal facility where the system and its contents are incinerated at a waste-to-energy facility. Some participating pharmacies also sell TakeAway envelopes. They are pre-addressed, postage pre-paid large envelopes that can be taken into the home, filled with unused and expired medicine, and mailed through the United States Postal Service to the disposal facility. Controlled substances must go to law enforcement or one of the United States Drug Enforcement Administration collections.

Michigan

Michigan offers a clean sweep program for agricultural pesticides through its Department of Agriculture & Rural Development (MDARD). The Michigan Department of Environmental Quality covers household collections, supported by an EPA grant. No grants are given. MDARD will cover the cost of transportation and disposal costs of pesticides collected at household events.

Minnesota

Minnesota enters into cooperative agreements with counties to collect non-agricultural and agricultural waste pesticides. For those counties without a cooperative agreement, the Minnesota Department of Agriculture (MDA) holds collections. Agricultural pesticides are collected every other year and household hazardous wastes are collected each year. MDA pays supplies, transportation and disposal costs and \$0.25/lb. for "reasonable overhead costs." The Minnesota Pollution Control Agency (MPCA) provides stipends to counties for household hazardous waste collections. Stipends cover about ten percent of costs and are determined by different formulas. Minnesota does not offer drug grants. Collections, transportation and disposal are overseen by county law enforcement and counties pay all associated costs.

Public comments including comments in Response to Web Posting

The department solicited comments on the economic impact analysis from interested parties and sought responses by posting both on DATCP's website and also the state's rules website. Three comments were received, but all had to do with revisions to the proposed rule and not to the economic impact analysis. The department reviewed those comments during the public hearing and comment portion of the rulemaking process.

Name and Phone Number of Contact Person

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